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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/527,989	10/13/2005	Peter Forsell	2333-137	4862
23117 7590 08/05/2010 NIXON & VANDERHYE, PC 901 NORTH GLEBE ROAD, 11TH FLOOR ARLINGTON, VA 22203				
EXAMINER STOKLOS, JOSEPH A				
ART UNIT		PAPER NUMBER		
3762				
MAIL DATE		DELIVERY MODE		
08/05/2010		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/527,989

Applicant(s)

FORSELL, PETER

Examiner

JOSEPH STOKLOSA

Art Unit

3762

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 June 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-5, 7 and 9-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5, 7 and 9-35 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/GS/US)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 6/22/2010 has been entered.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 10, 12-14, 16, 18, and 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolbert (US 4,985,922) in view of Zarinetchi (US 6,324,430) and in view of Schulman (US 4,071,032).

3. Kolbert discloses a system for transmission of power and data signals through a medium with an alternating magnetic field comprising a coil for generating outside the medium with windings (e.g. windings 28; Col. 3, line 9-10), with a front/bottom end directed to the medium and corresponding receiver unit, and a rear/top end that faces

away from the medium and corresponding receiver as seen in Fig. 2. It is also seen in Fig. 2, that the coil structure and windings extend longitudinally.

4. Kolbert further discloses an integral shield with a ferromagnetic core that extends longitudinally through the coil as seen in Fig. 2 (e.g. housing 22 and core 26). As seen in Fig. 2, housing member 22, surrounds all sides of the coil except the bottom/front of the coil where only a magnet is placed about the periphery of the housing to hold the unit in place against a metallic medium. Examiner considers the top of the housing to be a gable wall that is integrally joined with the core and circular cylindrical walls. Further, Kolbert clearly discloses the core extending centrally from the gable wall/ shield top in that the core is located centrally perpendicular to the gable wall/shield top.

5. Kolbert fails to explicitly teach the use of the transfer system for use with an implanted medical device and the medium being a patient's skin and the ferromagnetic core being made of ferrite.

6. Zarinetchi teaches that it is known to use an inductively coupled coil system for use in transferring power/data to a medical implant transcutaneously as set forth in the ABSTRACT for providing the predictable results of providing greater patient comfort through non-invasively providing power to an implant.

7. Schulman teaches that it is well known to use ferrite as the ferromagnetic core for an external inductively coupled primary coil unit as set forth in Col. 10, line 7-20 for providing the predictable results of increasing the pick up efficiency of the magnetic field.

8. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Kolbert with use of the transfer system for use with an implanted medical device and the medium being a patient's skin and the ferromagnetic core being made of ferrite since such modifications would provide the predictable results of providing greater patient comfort through non-invasively providing power to an implant and increasing the pick up efficiency of the magnetic field.

9. Claims 5, 7, 11, 15, 17, 22-31, 33-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolbert in view of Zarinetchi and Schulman as applied above.

10. With regard to claim 11, Kolbert in view of Zarinetchi and Schulman fail to disclose the use of two transmitters. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Kolbert in view of Zarinetchi and Schulman with the use of two transmitters since such a modification would provide the predictable results of ensuring efficient recharging of implanted medical device that is located internally and migrates by diametrically opposition of the transmitters such that the implant will be located in between the two and at least one transmitter will be able to more efficiently couple.

11. With respect to claims 5, 7, 15, 17, 22-23 Kolbert in view of Zarinetchi and Schulman disclose the invention as claimed but fails to teach the core longitudinally extending beyond the length of the shield and cut out slots on the sides of the shield. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Kolbert in view of Zarinetchi and Schulman

with providing cut out slots on the side of the shield which would yield a system where the core and coil windings extend longitudinally beyond the shield for providing the predictable results of providing ventilation for the skin surface and dissipation of any excess heat energy stored within the shield member.

12. Claims 9, 19, 32 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kolbert in view of Zarinetchi and Schulman as applied above and in further view of Winkler (US 5,527,348).

13. Kolbert in view of Zarinetchi and Schulman disclose the invention as claimed, but fails to teach a plastic casing surrounding the shielding that places the coil and core at a distance in the order of centimeters away from the user's hand. Winkler teaches that it is known to use a plastic casing to house the external coil assembly and would place the users hand at a distance on the order of centimeters away from the coil as set forth in Col. 4, line 35-48 and Figs. 1-2 for providing the predictable results of creating a more aesthetically pleasing unit by covering the internal components as well as providing a buffer between the operator's hand and the magnetic field created by the coil. It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the system as taught by Kolbert in view of Zarinetchi and Schulman with the use of a plastic housing that places the coil away from the users hand at a distance of the order of centimeters since such a modification would provide the predictable results of creating a more aesthetically pleasing unit by covering the internal components as well as providing a buffer between the operator's hand and the magnetic field created by the coil. Moreover, it would have been obvious to one having

ordinary skill in the art at the time the invention was made to configure the plastic housing to place a users hand in the order of centimeters since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum workable ranges involves only routine skill in the art [*In re Aller*, 105 USPQ 233] and/or since it has been held that a prima facie case of obviousness exists where the claimed ranges and prior art ranges do not overlap but are close enough that one skilled in the art would have expected them to have the same properties. *Titanium Metals Corp. of America v. Banner*, 778 F.2d 775, 227 USPQ (Please see MPEP 2144.05). Further, Examiner considers the User's hand to be located in the order of centimeters. Any distance can be looked at as in the order of centimeters, i.e. 0.01 centimeters to N centimeters. Applicant's claim fails to specify "at least" how many centimeters the user's hand be placed.

Response to Arguments

14. Applicant's arguments filed 6/22/2010 have been fully considered but they are not persuasive.
15. Applicant argues that Kolbert fails to teach the ferromagnetic core is formed integrally with the shield where the top of the shield is considered a gable. Applicant argues that Kolbert fails to explicitly state the core is integrally joined with the top of the shield and it is not seen in the drawings. Examiner acknowledges Kolbert fails to explicitly disclose the core is integrally formed with the shield top; however Examiner considers the core to necessarily form a mechanical connection to the top of the shield otherwise the core would lack any support and could not be located centrally which

Kolbert explicitly discloses. In other words, it is Examiners position that there must be some type of mechanical fixation of the core to the shield, and any mechanical connection would meet applicants claimed limitations.

16. Further Claim 1 as written only requires the core extend centrally from the gable wall. Examiner notes that this fails to claim that the core is actually mechanically connected to the gable wall. As stated above, Kolbert discloses a core that extends from the gable wall/shield top and no mechanical connection is necessary to meet this limitation.

17. Applicant further argues that the core is not integrally formed to the gable wall top because Kolbert's Fig. 2 shows field lines that extend through the gable. Examiner respectfully disagrees. It is Examiner's position that the field lines shown in Fig. 2 simply illustrate the magnetic induction and transfer properties of Kolbert's invention and to draw a conclusion such as the field lines are traveling through the gable would be improper. Examiner considers Applicant's arguments to be tantamount to arguing that the transmitter 14, disclosed by Kolbert will always have a cut out section on the side gable walls, also seen in Fig. 2, when Kolbert has clearly shown the cut outs to illustrate the inner structure of the transmitter.

18. In response to applicant's argument that Kolbert and Zarinetchi are non-analogous art and not combinable, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24

USPQ2d 1443 (Fed. Cir. 1992). In this case, both Zarinetchi and Kolbert are related to transmission of power/energy through a medium. It is unclear if Applicant is arguing that Kolbert's transfer of a power is not the same as Zarinetchi's disclosure of transferring energy.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSEPH STOKLOSA whose telephone number is (571)272-1213. The examiner can normally be reached on Monday-Friday 7:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Niketa Patel can be reached on 571-272-4156. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/George R Evanisko/
Primary Examiner, Art Unit 3762

Joseph Stoklosa
Examiner
Art Unit 3762

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7/29/2010